



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/135,059	10/12/93	SEEBACHER R	233808419

DARBY & DARBY
805 THIRD AVENUE
NEW YORK NY 10022

PM31/0417

EXAMINER
RODRIGUEZ, S

ART UNIT PAPER NUMBER
3622

DATE MAILED: 04/17/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
08/135,059Applicant(s)
Seebacher et al.Examiner
Saul J. RodriguezGroup Art Unit
3622**THE PERIOD FOR RESPONSE: [check only a) or b)]**

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on Nov 10, 1997 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Mar 2, 1998 has been considered with the following effect, but is **NOT** deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

- ☒ will not be entered because:

- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The limitation of the power flow being effective when at least one runner is connected with the rotary driven device raises a new issue which would require further consideration. Also, since the claims have been finally rejected, the cancelation of the claims drawn to the non-elected inventions is recommended.

- ☐ Applicant's response has overcome the following rejection(s):

- ☒ Newly proposed or amended claims 71-73 would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 36-47 and 70

Claims objected to: 25-27, 29, and 30

Claims rejected: 1-19, 21, 22, 24, and 69

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

- ☒ Other See enclosed Detailed Action

RODNEY H. BONCK
PRIMARY EXAMINER
ART UNIT 3622

Art Unit: 3622

DETAILED ACTION

1. This communication is responsive to the amendment filed March 2, 1998.

Transitional After Final Practice

2. The submission under 37 CFR 1.129(a) filed on March 2, 1998 has been considered but the finality of the previous rejection has not been withdrawn. An application that has been filed for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. 120, 121 and 365(c), is entitled to have a submission entered after final rejection. In this case, applicant's reliance on foreign priority (35 U.S.C. 1.19) for the benefits provided by the transitional provisions is improper. Therefore, an advisory action is deemed proper for the reasons set forth in the PTO 303.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saul J. Rodriguez whose telephone number is (703)308-7575. The examiner can normally be reached on weekdays (Monday through Thursdays) from 7:30 a.m to 6:00 p.m..

Serial Number: 08/135,059

Page 3

Art Unit: 3622

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached on (703) 308-0830. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

gn

SJR

April 15, 1998

Rodney H. Bonck
RODNEY H. BONCK
PRIMARY EXAMINER
ART UNIT 3622